UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

No. 12-md-02409-WGY
Volume 1, Pages 1 - 57

In Re: NEXIUM (ESOMEPRAZOLE) ANTITRUST LITIGATION

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For Jury Trial Before:
Judge William G. Young

United States District Court
District of Massachusetts (Boston)
One Courthouse Way
Boston, Massachusetts 02210
Thursday, November 13, 2014

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I N D E X

E X H I B I T S

P R O C E E D I N G S

(Jury enters, 9:00 a.m.)

THE COURT: Well, good morning, ladies and gentlemen. I really, and most sincerely, I thank you. Your efforts to be right on time are so important. By the end of the day today maybe I can tell you a little bit about where we are. We'll see how it goes today. We're all ready to go. We were watching and listening to the deposition of a Mr. Diggons. And we may continue playing it.

(Continues videotape of Mr. Diggons.)

Q. Below that it says "multiple generics from LoE." That stands for "loss of exclusivity," correct?

A. That's correct.

Q. And then it says "erosion greater than Zocor analog." Do you see that?

A. I do.

Q. Are you familiar with Zocor?

A. A little bit.

Q. Who makes it, do you know?

A. I think it's Merck.

Q. Do you know when it went generic?

A. Not off the top of my head, no.

Q. Do you know what the IMS data or other data about the effects of generic entry for Zocor show?

A. I believe in looking at this, um, Zocor was used as a single generic entry analog.
Q. That is the entry of one generic competitor?
A. Correct.
Q. One AB-rated generic competitor?
A. These are AB-rated, yeah.
Q. Right. Do you know what "AB-rated" refers to?
A. I do.
Q. What does it refer to?
A. It means it can be switched, a branded prescription can be switched at the pharmacy by the pharmacist to a generic version of the same chemical molecule.
Q. All right. Do you know how the Zocor analog was used in this particular document?
A. On the second page there's a line called "Zocor" and it shows erosion rates. Based on my knowledge of having done this for other brands and using other analogs, and not this document, it looks to me like it was a consideration for an analog in this case.
Q. So you're referring to the second page of the document, Bates Page 375 at the bottom?
A. Correct.
Q. The lower left it has "Zocor," to the right of that are a series of percentages.

Is that what you're referring to?
A. Yes.
Q. So within a couple of months Zocor lost 70 percent of its branded business to the generics, is that what this shows?
A. That's what this data shows.
Q. Let's go back to the first page for a second. The fourth bullet or slash down it says "Product sales erosion into 2009 to 2011 shaped on '08 exit and historical forecasted sales trends of Zestril and Toprol." Do you see that?
A. I do.
Q. Toprol is an AstraZeneca product?
A. That's correct.
Q. Do you know when it went generic?
A. I believe it was in the end of 2006.
Q. And what is Zestril, is that an AstraZeneca product?
A. It is.
Q. Did that go generic at some point?
A. It did. I believe it was 2001, between 1999 and 2001. It's been quite a while.
Q. Okay. And AstraZeneca also launched an authorized generic version of Toprol, correct?
A. That's correct.

Q. Did it launch an authorized generic version of Zestril?
A. It did not.
Q. If you'd turn to the next page, that's Bates Page 375. At the top of the page it says "IMS chart August 27th, 2007 deck erosion curves by month, actual data points." Do you see that?
A. I do.
Q. But you're not positive whether the erosion refers to dollar sales or units or prescriptions?
A. How the percentages were developed, no, that's not included in the notes.
Q. And so, for example, for 2002, the second month at the top saying 40 percent, the corresponding second month for 2002 in the generic grouping below 60 percent, shows that after two months, whatever drug this is based on, after two months the brand retained 40 percent and 60 percent was lost to the generic, is that correct?
A. Correct.
Q. And that's true for all of these numbers in these first two groups, correct?
A. These are pretty standard volume retention erosion analogs.
Q. When you say "pretty standard"?
A. So this would be the way that we would model the

generic erosion, business retention.
Q. By looking at data on other drugs?
A. Right.
Q. Both drugs that AstraZeneca has sold that have gone generic and other drugs which you get data on from IMS, correct?
A. Correct.
Q. Well, for purposes of the effect of entry of an AB-rated generic version of Nexium in April of 2008, as AstraZeneca's 30(b)(6) witness, did AstraZeneca decide on some other final expected numbers that would -- instead of the 88 percent and 12 percent numbers I pointed you to?
A. Our base forecast was that we maintain 100 percent Nexium.
Q. You looked at it, but you never came to a decision about what the final erosion would look like?
A. Yeah, the -- again the way that we do the forecast is we develop a base-case assumption, right, which is what becomes the formal "budget," to use a generic term. The -- we talk about the goalposts that are around it. This is one of the kind of elements within understanding what those goalposts are. Right. So when you say that it was like we decided that's what it was, I don't believe that that was -- that that's what this was done

for. This was -- we do these on a -- we do three planning cycles a year and with every planning cycle, where there's forecast uncertainty, we prepare scenarios for better or for worse.

Q. All right. Why don't you turn to the next page, which is Bates Page 376.

A. (Turns.)

Q. Are you there, sir?

A. Uh-huh.

Q. Okay. Now, at the upper left corner it says "Nexium P & L, February '08 MLF, base case $M." Do you see that?

A. Yes.

Q. The "$M" refers to the fact that these numbers are expressed in millions, correct?

A. That's correct.

Q. So looking at the numbers, we have actual 2006 and 2007 product sales which for '06 is slightly over 5.8 billion and '07 is slightly over 6.3 billion.
Do you see that? Is that correct?

A. That's the gross sales, yeah.

Q. Sure. In other words, if I'm looking at a term here like "product sales" that also appeared in Exhibit 3, is it fair to say they have the same meaning?

A. Yes. The only thing I would point out is there's

-- we talked about the field force allocation, so that's included on this document, whereas the other document that we reviewed was a system-generated report which does not include those costs. That's a new row here.

Q. The new row is "FF allocation"?

A. That's correct.

Q. What do you call that, "Field Force"?

A. "Field Force Allocation."

Q. And what does that refer to?

A. So that's the people costs. And then their computers, their cars, and benefits and everything that's associated with the AstraZeneca sales force in the United States. It's typical that a sales representative will detail multiple different brands. So there's an allocation process that the company goes through based on level of effort, um, number of details, um, on Nexium, or Crestor -- or perhaps they carry like two brands, Nexium and Crestor, there's an allocation process that we go through to say "This is the level of effort that this particular rep or this group of reps exerted on Nexium," and they would turn that into the total, a dollar cost. And that would be then applied to Nexium. That really is done to give us a better understanding of the, um, profitability, revenue, and expenses, directly related to Nexium.

Q. I see. So for the top line of this, um, base case -- now, this document in the lower left corner, um, says "Nexium, April of 2008, February '08 MLF." That's the --

February '08 is the date this document was created, is that correct?

A. "February of 2008 MLF" refers to -- the "MLF" is "Most Likely Forecast," and that's a monthly, um, forecasting process that we go through. So February '08 MLF would be the most likely forecast cycle that we would have gone through in February of 2008.

Q. I see. I see. Okay. So then we have in the top row again, this is back to Bates Page 376, "Product Sales," we have numbers for January '08, across all of '08, um, and then for all of '09, '10, and '11. These are projected figures, is that correct?

A. Everything from January of '08 forward would be a projected figure, correct.

Q. Okay. And these numbers project product sales for '08, '09, '10 and '11, without generic entry, correct?

A. That's correct.

Q. And it adds up to 13, 18, 23, something over $23 billion, correct?

A. You're adding gross sales?

Q. Yes. I'm looking at product sales. Sorry.

Product sales.
A. Product sales. That looks to be the rough estimate of product sales.
Q. Okay. Let's turn to the next page, which is Bates Page 377.
A. (Turns.)
Q. Are you there, sir?
A. Yes.
Q. So the upper left corner it says "Nexium P & L generic entry occurs April 1st, 2008." Do you see that?
A. Yes.
Q. So this is a forecast of the same types of data that is product sales and net sales and so forth, but with the assumption of entry of an AB-rated generic version of Nexium in April of 2008, correct?
A. It's the generic entry scenario here.
Q. Right. And this is -- the numbers represent, for purposes of this scenario in this document, the projected numbers in a world in which there's a generic version of Nexium during April of 2008, correct?
A. Correct.
Q. So, for example, um, we have in the first row "Product Sales," um, sales in February of 544 million. Do you see that?
A. Yes.

Q. Now, would that be an actual or projected number given the date of this document?
A. These would all be projected.
Q. Okay.
A. January could be actual at this point, but everything else is projected.
Q. Okay. So what this document is showing in the first row is that Nexium sales in February '08 before generic entry in April of '08 would be expected to be 544 million, and in May '08, the month after generic entry, brand sales were expected to drop to $82 million. Is that what this shows?
A. Correct.
Q. And by 2010 it's below $100 million, correct?
A. Yes, correct.
Q. And by 2011 it's down to $33 million, correct?
A. Correct.
Q. Okay.
Now, just above the months you see percentages, um, that start at 10 percent, from what I can read, and go up to 96 percent, it's a hard to read, and then picks up again at 97, 98, 100 percent. Do you see that?
A. Yes.
Q. That corresponds to generic substitution percentages drawn from Bates Page 375, um, Nexium Version 2A?

A. That looks to be the percentages that we used, yes.
Q. There's a little bit of rounding that occurred when you go out, but that's where it's drawn from, correct?
A. It looks to me to be a correct set of numbers, yes.
Q. Okay. So let's turn to the next page of this document, please.
A. (Turns.)
Q. It's Bates Page 378. Are you there?
A. I am.
Q. Upper left corner says "Nexium P & L Variance, base case versus generic entry April 1st, 2008, dollar, millions." And this page represents the difference, the mathematical difference between the numbers that appear as a projection in a row when there's no generic entry and the numbers that appear when there's a row where an AB-rated generic version of Nexium is assumed to enter in April of 2008, correct?
A. Yeah, this third page, 378, which you just referred to, looks to be the difference between the base case and then this scenario that we just discussed.
Q. Well, so, for example, let me take you to an example.

If you look at Bates Page 376.
A. (Turns.)
Q. 376, in the "Product Sales" row, July '08, Number 619. Do you see that?
A. Yes.
Q. That represents a forecast of 619 million in branded Nexium sales in July of '08?
A. Product sales.
Q. Right. Product sales.
A. I just want to be clear on that because usually "sales" in general is net sales.
Q. I gotcha. We could use net sales for the same exercise that appears. I'm just making an example for purposes of math.
A. Sure. Okay.
Q. So for product sales, Bates Page 376 for July '08, it's 619 million.
The next page of the document, Bates Page 377 for the same July '08 month, now we're in a row where an AB-rated generic version of Nexium is assumed to enter in April of 2008, the number is 60 million.
Do you see that?
A. Yes.
Q. So then you flip to the next page, Bates Page 378, and the "product sales" row for July '08 has the number

559 in parentheses. Do you see that?
A. Yes.
Q. Which is an accounting way of showing a loss or a negative, is that correct?
A. It would be that the scenario is less than the base case, yes.
Q. Right. So it's 559 because you take the 619 million that we were looking at before, the expected brand sales without generic entry, you subtract 60 million that's expected to be sold of branded Nexium in a world in which generic versions of Nexium enter in April '08, and you get 559 million, which here is expressed as a loss in brand sales, correct?
A. Correct.
Q. So when you move over to, um, the year figures '08, '09, '10 and '11, um, you have four numbers all in parentheses that add up to -- let's see, 16, 17 -- about $22 billion. Do you see that?
A. You're talking '08, '09, '10, and '11?
Q. Yes.
A. That looks to be roughly 22 million.
Q. Right. And they're all in brackets or parentheses, which indicates that according to this document on this page, um, if an AB-rated generic version of Nexium were to enter in April of '08, um,

AstraZeneca would lose $22 billion in Nexium product sales over the period of '08 to 2011, correct?
A. In product sales, yes.
Q. Okay. And similarly if we go down, um, that is down the page from top to bottom on Bates Page 378, you have numbers that correspond to the net sales figure that add up to roughly $9 billion. Do you see that?
A. Yes.
Q. You said "yes"?
A. Yes.
Q. Okay. So similarly that means that according to this document, um, AstraZeneca would lose approximately $9 billion in net Nexium branded sales over the period of '08 to 2011 if an AB-rated generic form of Nexium were to enter in April '08?
A. That's correct.
Q. Okay. And to take another example, move down to "Gross Margin," um, the numbers in '08, '09, and '10 and '11, add up to approximately -- approximately $6 billion. Do you see that?
A. Yes.
Q. So again this represents that, according to this document, AstraZeneca would lose approximately $6 billion in gross margin on branded Nexium if an AB-rated generic version of Nexium were to enter in April of

2008, correct?
A. Yes, under this scenario, that's correct.
Q. Okay. Sir, what I've marked as Exhibit 5 bears Bates Number AZ-NEX-MDL 00847315 through -- well, in other words, I'll take a step back.
For a drug like Arimidex that AstraZeneca sells, it knows directly from its own sales data what happens to its brand sales before and after a generic entry, correct?
A. Correct.
Q. It doesn't necessarily know how much the other generic companies are getting in sales without getting IMS data, correct?
A. IMS data would provide prescription volume, not sales data.
Q. Sir, Exhibit 10, bears Bates number NEX-RBX 3505839. This also was blown up to make it easier to read. The front page is an e-mail from a Marion McCourt to herself, dated April 26th, 2008, and then there's an attachment.
Have you seen this document before?
A. Yes.
Q. When was the first time you saw it?
A. Um, yesterday.
Q. Did you see it in unredacted form?

A. No, I did not.
Q. If you turn to Bates Page 841. Are you there, sir?
A. Yes.
Q. Under the "Key Assumptions" right below the redacted box, it says "AG pricing based on Toprol AG experience, 60 percent" -- I think that's 60. Um, "discount to Nexium WAC at launch in 2008, 65 percent in 2009."
Do you see that?
A. Yes.
Q. So I handed you a document marked NEX-RBX 3514270, marked as Exhibit 14. It's an e-mail attachment dated 4-29-2007. If you look to the attachment, the first -- the cover page is a "Genesis Overview"?
A. Yes.
Q. If you go to the last page, which is Bates Page 277, it says "High Level Timeline." It says "Capsules have been ordered from Capsugel."
What is "Capsugel"?
A. I don't know.
Q. It says "Formulation, early 2008." Below that it says "Packaging to support mid April 2008 availability." Below that it says "8 weeks stock to support full product launch." Below that "70 to 75 million capsules

based on projected forecast."
So if I understand this correctly, that according to this document AstraZeneca was looking at a -- having 70 to 75 million capsules of authorized generic Nexium equivalent to 8 weeks of stock, um, and have it all available for an April of 2008 potential launch, is that correct?
A. So not being directly familiar with the document, what I can gather from looking -- and we talked before about operations of preparation for a potential launch, um, this looks like a review document that would have laid out some of the volumes that would have been necessary to support a launch. There's a stocking assumption here, so. And given that it's Project Genesis, Nexium AG.
Q. And so the 70 to 75 million is what was thought to satisfy eight weeks of demand?
A. Based on this scenario.
Q. Now, with respect to the -- you had mentioned that there was a charge-back element to this particular line item?
A. Charge-backs are included in there.
Q. And how so? What do you mean by that?
A. I mean, how are they included? So managed markets discounts essentially covers any price concessions from

the gross value of the products or the WAC down to the net agreed-upon price that we would have agreed with a third-party payor. In the case of a charge-back, it would be the WAC is a dollar, for example, um, we've agreed, either voluntarily or involuntarily, through like statutory rebates, like say with the Department of Defense on the federal supply schedule, to sell to them say for 75 cents. So we sell to the wholesalers for a dollar in this example. When the wholesaler goes and -- or when the Department of Defense in this example buys from the wholesaler, there's an agreed-upon price they have with AstraZeneca that's 75 cents, the wholesaler sells it to them for 75 cents. That a 25 cent difference that the wholesaler is now effectively out, is charged back to AstraZeneca.

Q. Now, let's take a look at Exhibit 3.

A. (Looks.)

Q. Do you have that in front of you?

A. I do.

Q. Now, you earlier described this as a U.S., um -- U.S. management --

A. U.S. management profit and loss statement.

Q. Right. And so who decides what to include in this and what not to include in it -- in terms of items?

A. Well, these are actuals.

Q. I understand that. In the left column it starts at "Product Sales" and goes all the way down. We went through that. Do you recall that?

A. Right. You mean as far as what categories it includes?

Q. Exactly. What items in the left column are included versus any that are not included, who decides that?

A. You know, we've been with this format forever since I worked at the company. So it would have been -- this is the U.S. management P & L. So it's the way that management at whatever level is measured from the board of directors looking at the CEO, to the executive vice-president of North America looking at a commercial brand leader, how does his brand or group of brands perform. It's the best representation of the profitability of the brand within a given market including the costs that are directly attributable to the sales in that market.

Q. Thank you.

A. And then one other clarifying point. This particular exhibit is a system generated report. So we talked before about the Field Sales Allocation, headquarter costs, and others -- those types of costs. They're not included here because systematically they're not allocated to a brand.

Q. Do you have some actual knowledge of the research and development dollars relating to Nexium?
A. No.
Q. Okay.
In terms of the questions you were asked about some projections, I believe you testified -- and I want to be very clear about this, that you are not aware of -- I'll start again.
You're not a lawyer, correct?
A. That's correct.
Q. And you're not a patent expert of any kind, correct?
A. That's correct.
Q. Okay. And you didn't develop any personal independent view of the likelihood of AstraZeneca winning or losing its patent case against Ranbaxy related to Nexium, correct?
A. That's correct.
Q. And are you aware from counsel -- this is just a "yes" or "no" question.
Did you learn from counsel, AstraZeneca's counsel's view of the likelihood of it winning or losing its case against Ranbaxy?
A. No.
(Video deposition ends.)

THE COURT: That's it? All right. Call your next witness.

MR. SHADOWEN: Your Honor, for the record, um, the Diggons Exhibit Number 1 is in evidence as Trial Exhibit 13. Deposition Exhibit 3 is Exhibit EHV for identification. And Plaintiffs move its admission.

THE COURT: Any objection to EHV?

MR. BUTSWINKAS: No, your Honor.

THE COURT: All right. Admitted in evidence as Exhibit 141.

(Exhibit 141, marked.)

MR. SHADOWEN: And Deposition Exhibit 4 is in evidence as Trial Exhibit 14. And Deposition Exhibit 5 is in evidence as Trial Exhibit 17. And Deposition Exhibit 10 is Exhibit EGK for identification. And plaintiffs move its admission.

THE COURT: No objection to EGK?

MR. BUTSWINKAS: Correct, your Honor.

THE COURT: It's admitted as Exhibit 142.

(Exhibit 142, marked.)

MR. SHADOWEN: And deposition Exhibit 14 is in evidence as Trial Exhibit 127.

THE COURT: All right. Call your next witness.

MR. SOBOL: Your Honor may recall that yesterday, outside the presence of the jury, the Court admitted in

evidence Exhibit 140.

THE COURT: Correct.

MR. SOBOL: And so we wanted to be able to publish that to the jury before we proceed.

THE COURT: You just want to pass it?

MR. SOBOL: Yes, your Honor.

THE COURT: The Clerk will pass it.

We haven't done this yet, but it's a common way of doing it. He properly recites that -- I mean we work while you're gone, but I've admitted this document in evidence so, um --

Oh, you made copies?

MR. SOBOL: Yes, your Honor, if that's acceptable.

THE COURT: That is acceptable.

But you don't have to carry these copies back and forth. They want you to have them. It's in evidence. That's fine. Remember this is 1 out of 141 exhibits. So I'm not going to ask you to have a whole file of 141 exhibits. But if you want it, you can have it, and you can tuck it in with your notebooks. I'm just telling you you don't have to. The document's in evidence.

All right. Call your next witness.

(Passes out to jury.)

MR. SOBOL: In addition, your Honor, before we also proceed the plaintiffs move into evidence ERF,

which is a document from the files of Teva, a Power Point presentation.

THE COURT: ERF, any objection, counsel?

MS. WALKER: What is it?

MR. SOBOL: It's the Diachi presentation.

MS. WALKER: Object, your Honor.

MR. SOBOL: Sidebar, your Honor?

THE COURT: Well, that was pretty quick. Let me see it.

Come to the sidebar.

AT THE SIDEBAR

THE COURT: This looks -- let me propose an analysis and then see where we are. It looks, (1) relevant, and (2) it's an admission by Teva. So why shouldn't this be admissible?

MS. WALKER: This was a document that they raised when Ms. Staci Julie was on the stand, they asked her about it. No foundation was laid whatsoever for it. There's -- it is an internal draft. There's been no foundation laid by any witness either here at trial or at any deposition, your Honor.

THE COURT: Okay. Now accepting that, it's an internal draft, it's a paper circulated to somebody in Teva. Doesn't that go to its weight, not its

admissibility? It's both relevant and it's an admission.

MS. WALKER: It's hearsay, your Honor.

THE COURT: It's not hearsay.

MS. WALKER: It's an internal draft.

THE COURT: What authority is there for that?

MS. WALKER: This is not a business record. Every draft that's inside a corporation is not a business record.

THE COURT: Oh, I agree with that.

MS. WALKER: Nobody would know who said --

THE COURT: We don't, it goes to the weight.

MS. WALKER: We have no idea. It could be something that somebody outside of Teva drafted. All we know is it's not an admission of Teva. There's no foundation.

THE COURT: It says "Teva" on every page.

MS. WALKER: We don't know any of the contacts of where it came from.

THE COURT: We don't. Maybe you'd like to explain it to reduce its weight. It may be just a scrap of nothing, but it is Teva's and it is relevant.

Now, under 801(d)(2)(D) it's an admission. It's talking about the business of Teva with Teva's statements on it. I reasonably infer some Teva employee

generated it. If you can show me somebody else did, that's something else. I'm not admitting it under 8036 as a business record, it's coming in under 801(d) -- 801(d)(2)(D).

MS. WALKER: We would just -- for the record we believe that any document that just comes out of a company's files on a computer somewhere is not an admission of the company.

THE COURT: That may be, but this one is.

MR. BALDRIDGE: Go ahead.

MS. FOLEY: The problem is the plaintiffs are trying to use this document to show that there was a meeting between Teva and Diachi, as a shareholder of Ranbaxy. There's no foundation for that.

THE COURT: Absolutely right. So having heard from you, it is limited only to Teva.

MR. BALDRIDGE: And no admission as to Ranbaxy.

THE COURT: Correct.

MR. SCHMIDTLEIN: Or AstraZeneca.

THE COURT: Or to AstraZeneca.

MS. WALKER: Or, your Honor, or for the truth of anything asserted.

THE COURT: Wrong. It's admitted.

(In open court.)

THE COURT: ERF is admitted. It will be Exhibit 143. But there's a limitation on this one. If you believe -- and it's entirely up to you, but when I look at it it says "Teva" on it in various places. So I'm not clear what it is. I don't say anything about it. It's a piece of paper. It says "Teva" on it. I'm admitting it in evidence but only as to these plaintiffs' case against Teva, not against AstraZeneca, not against Ranbaxy.

Now, there was another exhibit that we likewise limited in this fashion. This comes in, Exhibit 142 -- 143, excuse me, but only against Teva, as limited.

Now, let's call the next witness.

(Exhibit 143, marked.)

MR. SHADOWEN: Thank you, your Honor.

The plaintiffs recall Dr. Thomas McGuire.

THE COURT: He may be recalled.

MR. SCHMIDTLEIN: Your Honor, may we have a sidebar?

THE COURT: Yes. Let's just remind the witness and then we can have the sidebar.

THE CLERK: I'd like to remind you, sir, that you're still under oath.

THE WITNESS: Thank you.

AT THE SIDEBAR

THE COURT: I speak only to help. Believe me. Look, he's back on the stand. I'm trying to stay current with your various briefings. I don't buy this theory that they bought off Ranbaxy and had they not bought off Ranbaxy, Ranbaxy would have been able to enter in 2011, and if Ranbaxy entered in 2011, obviously Teva could have entered in 2011. This is the only -- that's out. And I'm not going to let him testify to that. I settled that on summary judgment.

Here's how Ranbaxy stays in here. The plaintiffs have to prove that were it not for the deal with Teva, where as you characterize it AstraZeneca "bought off" Teva, Teva would have cut some deal with Ranbaxy, who couldn't have to market, but had that first position, and thereby not in the market before the key date, 2014.

The best I can say is that's the only theory that's going to go to the jury. That's in his report.

Well, Mr. Schoen?

MR. SCHOEN: It's not in his report.

THE COURT: Then we're not going anywhere.

MR. SHADOWEN: It is in his report.

THE COURT: We'll, okay, then we'll have to see. We'll go question by question.

MR. SCHMIDTLEIN: Can we get it right now?

THE COURT: No, we can't get it right now because I can't keep up with you, candidly. I know how to rule on questions. And if that sounds arrogant to the Court of Appeals, I say "I try to rule accurately."

MR. BALDRIDGE: It didn't sound arrogant.

THE COURT: No, no, I state for the record I'm good and I teach evidence, I'm good three out of four, three out of 5, and, you know, most of the rest of it is not substantial. And I have been reversed for an evidentiary ruling -- (Walks away.)

(Laughter.)

(In open court.)

THE COURT: Now while we're all over here, let's -- before we get into Mr. McGuire, let's take a stretch break and get ourselves all ready.

(Stretch break.)

THE COURT: (To the witness.) I guess that can include you, too.

(Laughter.)

THE COURT: All right. Mr. Shadowen, you may proceed.

MR. SHADOWEN: Thank you, your Honor.

DIRECT EXAMINATION BY MR. SHADOWEN. (Recalled witness.)

Q. Dr. McGuire, would you please remind the jury of your name and spell your last name, please.
A. Thomas McGuire. My last name is spelled M-C-G-U-I-R-E.
Q. And you were here before, right?
A. Yes.
Q. And you're a professor of health economics at the Harvard Medical School?
A. That's correct.
Q. Now, today I'd like to discuss with you your view as to whether AstraZeneca's settlements with Ranbaxy and Teva were interdependent and collusive?
A. Okay.
Q. Please remind the jury what the term "bottle-neck" means in this industry?
A. Okay. "Bottle-neck" is important to be able to answer that question --
THE COURT: Somehow I don't know that that mic is on. Maybe it's not on.
(Clerk turns on microphone.)
THE WITNESS: Can you hear me, okay? Is that all right?
THE COURT: Yes. Fine.
A. The concept of "bottle-neck" is important to understand, um, as I mentioned last time, and then it's

also important to understand how the bottle-neck can be used as part of the settlement agreement to effect the economic circumstances of AstraZeneca and the subsequent generic filers.

So what is a "bottle-neck"? A bottle-neck is put in place at the time there's a settlement date --

MR. SCHMIDTLEIN: Objection, your Honor. This is outside the report.

THE COURT: What are we talking about now?

MR. SHADOWEN: Tab 1, Paragraph 49, your Honor.

THE COURT: Thank you.

MR. SCHOEN: Also objection as to relevance, your Honor.

THE COURT: Overruled as to relevance, and in the middle of that paragraph he gives a definition of "bottle-necking" and he may testify in accordance with what he's disclosed.

You may give your definition.

THE WITNESS: Okay. Thank you.

A. So a "bottle-neck" refers to the, um, effect of an agreement between AstraZeneca and in this case the first-filer Ranbaxy because it affects the date at which not only the first-filer may enter but it also affects the date of subsequent generic potential interest.

MR. SHADOWEN: If we could have Figure 4, please.

(On screen.)

THE COURT: Just so I'm clear on that. Once an entity is first to file its ANDA, then under this Hatch-Waxman law -- now, I'm the judge of the law, but I'll get your interpretation of it since you're here.

THE WITNESS: Okay.

THE COURT: So it stands first in line, and we've heard a lot of testimony about that, and what you just testified to is if there is litigation between the patent holder and that first to file and then that litigation gets settled, that doesn't mean that the -- however they've settled, it doesn't mean the first-to-file loses its first-to-file position.

That's what you testified to?

THE WITNESS: Not, not at all.

THE COURT: Tell the jury.

A. No, not at all, I didn't refer to that in any way in the definition of the "bottle-neck." The "bottle-neck" refers to the establishing of the date that affects not just the parties who just settled an agreement but affects the date of potential entry for subsequent generic filers as well.

Q. Now, we have on the screen there a diagram that you have provided for us last time. I want to direct your attention to the bottom line in the lower right-

hand quadrant there that says "Anticompetitive Range." Do you have that?

A. Yes, I do.

Q. So if AstraZeneca and Ranbaxy settled in that anticompetitive range, what would be the effect of the bottle-neck?

MR. SCHOEN: Objection, your Honor, report.

MR. SCHMIDTLEIN: Objection.

THE COURT: Where is that?

MR. SHADOWEN: That is Tab 1, Paragraph 49, 65 and 66.

THE COURT: (Looks.)

MR. SCHMIDTLEIN: Sidebar, your Honor?

THE COURT: Wait a minute.

(Pause.)

THE COURT: Well, I have no problem with his testifying consistent with 65 and 66. Going back to 49, at least as to Ranbaxy, it's somewhat conclusory and I'm not disposed to allow that.

Will you accept just 65 and 66?

MR. SHADOWEN: Certainly.

MR. SCHOEN: May we have a sidebar, your Honor?

THE COURT: We may.

AT THE SIDEBAR

THE COURT: I guess I don't get it because 65 and 66, there's plenty of evidence about that. I could explain this to the jury, but I'm not so sure you want me to, and maybe nobody wants me to.

MR. SCHOEN: My concern, your Honor, is that I just heard you say, at the last sidebar, that this theory that the Ranbaxy settlement caused harm and delayed Teva was out?

THE COURT: It is out.

MR. SCHOEN: But that's exactly what this testimony is.

THE COURT: Well, he can get 65, 66 --

How long are you going to -- are you going to get from him that they would have cut a deal with Ranbaxy, is he your --

MR. SHADOWEN: He's not the causation person.

THE COURT: Okay.

MR. SHADOWEN: What he is is the interrelatedness between the two agreements. He's going to say Ranbaxy wanted that 180 days and in order to do that we're about to get to the contingent launch provision on Teva.

THE COURT: But here's the -- right, the contingent launch position is in.

MR. SHADOWEN: That's what we're doing.

THE COURT: But 65 and 66 is in his report and

I'll let him testify.

Here's the line I'm drawing. This is all working fine. You attack, he's ready with his paragraphs. I look at them. I'm not getting anything from pay-for-delay with respect to Ranbaxy, that's too -- given my earlier rulings, that's -- while it's 403 and it puts a red herring out there. We're not getting it. But 65 and 66 are his conclusions based upon undisputed facts. They did settle for Ranbaxy.

MR. SCHMIDTLEIN: No, but these are just factual paragraphs, it has nothing to do with that Figure 4 that he just asked him about.

THE COURT: I can only go question by question. He can testify as to 65 and 66.

(In open court.)

THE COURT: You put your question, Mr. Shadowen.

MR. SHADOWEN: Thank you, your Honor.

Q. It's true, isn't it, Dr. McGuire, that the bottle-neck itself is created as a creature of federal regulation, the regulation that says no later-filer can come in for 180 days, isn't that right?

MR. SCHOEN: Objection. Leading.

THE COURT: Sustained on that ground.

Q. Dr. McGuire, is the basic bottle-neck a creature

of federal regulation?
A. The rules and regulations around generic entry and ANDA filers are a creation of the Hatch-Waxman Act. So the "creature" you just described is due to the Act.
Q. In your review of the record, did you see any terms and conditions of the AstraZeneca-Ranbaxy agreement that affected the bottle-neck or affected the likelihood that any subsequent generic would be able to break the bottle-neck?
MR. SCHMIDTLEIN: Objection. Report.
THE COURT: Where is it?
MR. SHADOWEN: It's in Tab 2, Paragraph 21.
(Looks.)
MR. SCHMIDTLEIN: Can we be heard on this, your Honor?
THE COURT: No, I've announced my ruling and I think I can follow the line. There's no necessity. He may testify consistent with Paragraph 21.
A. Yes, I did identify such a cause.
Q. All right.
MR. SHADOWEN: Scott, would you put up Trial Exhibit 10.
(On screen.)
Q. Do you want to look at it on the screen or I have a hardcopy?

A. Well, a hardcopy is better. Thank you.

(Hands over to witness.)

Q. I direct your attention to Section 5.2 of that agreement, Dr. McGuire.

A. I'm there.

MR. SCHOEN: Objection, your Honor, the report.

THE COURT: Where?

MR. SHADOWEN: The same paragraph.

THE COURT: Your question was?

MR. SHADOWEN: I direct his attention to Paragraph 5.2.

MR. SCHMIDTLEIN: No, that's not cited in his report.

THE COURT: All right. Now let's see.

(Pause.)

THE COURT: Yes, sustained. He may testify but only at the level of generality that's in the report. That's what he disclosed. You may argue the point. But sustained.

Q. Dr. McGuire, in your review of the materials and in particular the Ranbaxy-AstraZeneca agreement, did you find what's sometimes called a "contingent launch" or an "acceleration clause"?

MR. SCHOEN: Objection, your Honor, the report.

THE COURT: Sustained. You're leading the

witness. He can testify in accordance with the report.

So when you looked over these agreements --

Feel free to object to my questions. I have no expertise.

(Laughter.)

THE COURT: No, no, no, I'm serious.

So when you looked over -- we'll start with the AstraZeneca-Ranbaxy.

So AstraZeneca-Ranbaxy had litigation, they settled the litigation, you understand that, correct?

THE WITNESS: Yes.

THE COURT: All right. And in that did you find something, um, you seem to have explained it here in this Paragraph 21, that, um, related to other people who were seeking to enter the market?

THE WITNESS: Yes, I did, your Honor.

THE COURT: What was it?

THE WITNESS: It's referred to as the "acceleration clause" or a "contingent entry clause."

THE COURT: All Right.

Pick it up, Mr. Shadowen.

Q. What was the effect of that clause on Teva in other subsequent filings?

MR. SCHOEN: Objection, your Honor, in the report.

THE COURT: Overruled. It's consistent with 21.

He may testify.
A. The effect is to reduce the economic incentive of Teva and subsequent generic ANDA filers to pursue litigation against the Nexium patents.
Q. How so?
A. Well, as I said a minute ago, the rules are the rules established by Hatch Waxman, what a generic challenger needs to establish in court in order to be able to enter. That's not something that the parties can change. What they can change are the gains and losses facing a subsequent ANDA filer. They can make that less attractive --
MR. SCHOEN: Objection, your Honor, not in the report.
THE COURT: No, it's within the ambit.
Go ahead. You may continue.
A. The clause that I'm referring to, the acceleration clause, makes it less attractive for Teva to pursue in this litigation and in that way makes it therefore less likely Teva would go ahead and do it.
Q. Is there something different about that clause as compared to the basic structure of the AstraZeneca-Ranbaxy agreement?
MR. SCHMIDTLEIN: Objection, report.
THE COURT: No, sustained on the ground that

you're leading the witness. Don't lead this witness.
Q. Dr. McGuire, did you compare the structure of that clause to the overall structure of the AstraZeneca-Ranbaxy agreement?
A. Yes, I did.
Q. And what did you conclude?
MR. SCHOEN: Objection, your Honor, report.
THE COURT: Yes, where is this in the report, any comparison to the Ranbaxy agreement?
MR. SHADOWEN: With the initial -- that paragraph, Paragraph 20, as compared to the initial report, Paragraph 60.
THE COURT: All right. Let me look at 60.
(Pause.)
THE COURT: No, sustained. He can tell us what these -- he can tell us, consistent with Paragraph 21, what these contingent launch provisions do in this regulatory context.
Q. Dr. McGuire, in your review of the record did you reach a conclusion as to whether or not the acceleration clause or the contingent launch provision was in fact effective in deterring earlier entry by Teva and others?
MR. SCHMIDTLEIN: Objection, report.
THE COURT: Yeah, sustained. He's confined to, um --

Where does it say that?

MR. SHADOWEN: In Tab 1, Paragraphs 65 and 66.

THE COURT: Oh, 65 and 66. All right.

(Pause.)

THE COURT: No, sustained.

Q. Dr. McGuire, directing your attention back to Paragraph 21 of your supplemental report.

A. (Turns.)

Q. Can you tell the jury whether or not the acceleration clause was in fact effective in deterring entry by Teva and others?

MR. SCHOEN: Objection, report.

MR. SCHMIDTLEIN: The report.

THE COURT: No, sustained. I've ruled on that.

Look, this isn't a game. This is very serious. But one of the rules of court that I enforce strictly is when you get one of these opinion witnesses, they've got to spell everything out to the other side so that the other side effectively can ask their questions, and I stick to that. But -- and I'm very strict on it.

But let me explain the line over there, but let me explain the line to Mr. McGuire.

I'm not trying to interfere with your testimony, which after all is under oath. It's up to the jury whether to believe it or disbelieve it. But what comes

closest here is this Paragraph 21, but in Paragraph 21 you only talk about the effect of these clauses generally and his questions say, "Oh, let's come to this case, how did it affect Teva?" I don't see anything in there about how it affected Teva. But it might be helpful for you to explain how do these clauses tend to affect subsequent filers, then it will be up to them to see if they can tie it in.

Do you understand the line I'm following?

THE WITNESS: I think so, your Honor.

THE COURT: All right. And I know Mr. Shadowen does, so we'll let him ask the questions.

MR. SHADOWEN: Your Honor, with respect I would direct the Court's attention to the last sentence of Paragraph 21.

THE COURT: In Tab 2. Thank you.

(Pause.)

THE COURT: Yeah, well, he may testify with respect to that.

MR. SHADOWEN: Okay.

THE COURT: That wasn't your question, respectfully. But you may ask him that.

Q. What effect, if any, did the acceleration clause have with respect to the subsequent ANDA filers in this case?

A. It succeeded in making it less likely. In fact there were no subsequent ANDA filers that pursued this through litigation.

Q. Now, Dr. McGuire, did you perform an economic analysis to determine what was Ranbaxy's motive to agree to the acceleration clause?

MR. SCHMIDTLEIN: Objection, your Honor.

THE COURT: Well, did he?

MR. SCHMIDTLEIN: Relevance, and not in the report.

THE COURT: Well, I'm more struck by that.

Where is it in the report?

MR. SHADOWEN: Tab 1, Paragraphs 30 and 31.

(Pause.)

THE COURT: 30 through 41?

MR. SHADOWEN: 30 and 41.

THE COURT: Thank you.

(Pause.)

THE COURT: He can testify as to 41, save as to the last sentence there, with respect to Ranbaxy, and 30 -- yeah, he can testify in accordance with 30.

Now, why don't you put your question and I'll have those two paragraphs in mind, if that's what you're basing it on.

Q. Dr. McGuire, what if anything was Ranbaxy's motive

to agree to a delayed entry and to make it stick through the acceleration clause?

MR. SCHOEN: Objection.

MR. SCHMIDTLEIN: Objection.

THE COURT: Yeah, sustained. I don't -- again at the -- sustained. And here's the line, so the witness can understand.

I don't know how he is able to testify as to the motives of people. He looked at documents. So the why people did things is either going to come from the testimony of people, from the documents, and lawyers can then argue -- having seen that they can say, "Well, look, this is why they would do it and the like." We may see that in this case.

We've got this opinion witness and he can give us his opinions, and if I look at those two paragraphs, again they set out considerations that companies could have in this regulatory area, and he can testify in accordance with those considerations at the level of generality that's set forth there.

Go ahead.

Q. Dr. McGuire, did you reach a conclusion as to whether Ranbaxy had an economic motive to agree to the acceleration clause?

A. Yes, I did.

Q. And what conclusion did you reach?

MR. SCHMIDTLEIN: Objection. Report.

THE COURT: Overruled. He may answer, consistent with those paragraphs.

A. The acceleration clause, as I explained, had the effect of reducing the likelihood that Teva would challenge and break the bottle-neck, which means for Ranbaxy it became more likely that they were able to use their 180-day exclusivity period and make the profits associated with that.

Q. And did you make an analysis, Dr. McGuire, as to the relative value to a first-filer of securing that 180-day period of exclusivity?

MR. SCHMIDTLEIN: Objection.

MR. SCHOEN: Objection.

MR. BALDRIDGE: Objection, form, report, summary judgment opinion.

THE COURT: Well, the form is okay, simply to ask, "Did you form such an opinion?" So he can answer that "yes" or "no."

A. I did form such an opinion.

THE COURT: Where is it in the report?

MR. SHADOWEN: Paragraph 54, Tab 1, your Honor.

(Turns.)

THE COURT: No, overruled. He may testify,

consistent with that paragraph.
A. There's a frequently-cited document that was an industry document that states that for the first-filer the vast majority of profits that it makes going generic will come during that 180-day period.
MR. SHADOWEN: And Figure 3, please.
(On screen.)
Q. Using this chart, Dr. McGuire, can you explain to the jury the relative importance to the first-filer of securing and making more certain that 180-day exclusivity as compared to having a delay and getting it?
A. Okay.
THE COURT: I didn't hear an objection, but I don't understand the question. Not that there's an invitation to object, but I didn't understand that one. So ask it again.
MR. SHADOWEN: Sure.
Q. Dr. McGuire, using Figure -- this figure on the screen, can you explain to the jury the relative importance to the first-filer of securing and making more certain its entitlement to that 180-day exclusivity?
A. Yes. This is the timeline, again, um, with the time beginning around 0 up to what's there labeled "T",

indicating the time during which the parties would be in litigation, and what you're seeing here are the consequences to the brand and to the generic if the generic were to win that litigation. So at "T" the Court decides the patents are not valid or infringed, the generic can enter. So what happens, as I think you by now understand, brand profits plummet and the generic can enter and make some profits.

Now, the thing to keep in mind in this figure is this is not certain. From the standpoint of the generic, as we're in litigation, this is a possibility, but the other possibility is they could lose that litigation and these profits would then not materialize.

MR. SHADOWEN: The next one, Scott, please.

Q. And what are we seeing now?

A. This is the delayed-entry scenario and the consequences for the brand and the generic. In the delayed-entry scenario, the brand of course doesn't have to worry about generic competition, continues to sell, um, you know, by itself in the market at high prices and makes high profits. That's what the high blue line is meant to represent. There is, however, an agreed-upon date of generic entry, which is now "t", and at that point the generic can come in.

So an important consideration with respect to

interpreting this part of the figure is this now is certain. So once litigation has led to a settlement, the brand is able to sell for a longer period of time, the generic can't get those same profits, but can get them with a certainty and not some chance of winning the litigation in the earlier path.

Q. And, Dr. McGuire, did you do a calculation that would help -- and an economic analysis of whether increasing the certainty of getting 180-day exclusivity is more important to the first-filer than when it gets the exclusivity?

MR. SCHMIDTLEIN: Objection, your Honor.

THE COURT: Grounds?

MR. SCHMIDTLEIN: Relevance. It just doesn't go to anything that's --

THE COURT: No, I think it's relevant.

A. Yes, I did. It's a very simple illustration, um, which I think makes the point of what the generic has to gain by being willing to accept a delay. And let me just pick a round number to make the point.

Suppose the generic profits are $500 million during the period of 180-day exclusivity. If I'm in litigation, I might get that and I might get it say with a chance of 80 percent, if I think I'm pretty likely to win that litigation. But I don't get it 100 percent. There's a

20 percent chance I don't get it.
So if I can strike an agreement with a brand and the brand says, "You have to come in a little bit later, but you get that 180 days with certainty," it means there's an additional 20 percent chance that the generic gets to make $500 million, and that's worth approximately 20 percent times $500 million, and that concession then would be worth $100 million.
Q. How, if at all, does that analysis relate to the acceleration clause of the --
MR. SCHOEN: Objection, your Honor, the report.
THE COURT: Yeah, where is it?
MR. SHADOWEN: Paragraph 111, Tab 1, your Honor.
(Pause.)
MR. SHADOWEN: Also Paragraph 82.
THE COURT: Yes, he may testify consistent with 111 and with -- well, 111 will support that and I'll be looking at 82. He may testify.
MR. SCHOEN: Sidebar, your Honor.
THE COURT: You may.

AT THE SIDEBAR
THE COURT: Yes.
MR. SCHOEN: I don't see anything in 111 that talks about the contingent launch clause. So what

they're doing is taking opinions that you rendered about the Ranbaxy settlement generally, about the payment, and now they're rewriting his report to say that it's all based on the contingent launch, and that's not what was disclosed to us, your Honor.

THE COURT: It's in there. He can so testify.

(In open court.)

THE COURT: Put your question, Mr. Shadowen.

Q. How does that analysis, that you just described to the jury, relate to the acceleration clause?

A. Just connect the dots. The acceleration clause has the effect of decreasing the probability that Teva would bust the bottle-neck, which has the, um -- from Ranbaxy's point of view it means that Ranbaxy's more likely to be able to use the 180-day exclusivity period.

Q. Did the fact that Ranbaxy received a no-authorized generic clause also provide an incentive for Teva to join the conspiracy?

MR. SCHMIDTLEIN: Objection, report.

THE COURT: Where is it?

MR. SHADOWEN: It's in Tab 2 and then Tab B of Tab 2, your Honor, Paragraph 25.

THE COURT: Tab B of Tab 2?

MR. SHADOWEN: Yes, your Honor, Paragraph 25.

MR. SCHMIDTLEIN: And also relevance, your Honor.
THE COURT: I understand.
(Pause.)
MS. FOLEY: What paragraph?
THE COURT: 25, he said.
(Pause.)
THE COURT: He may testify in accordance with Paragraph 25. Overruled. You may have the question.
A. I'm sorry. Would you mind repeating it for me, please?
MR. SHADOWEN: Sure, if I can.
Q. Did the fact that Ranbaxy received a no-authorized generic clause as part of what plaintiffs say is a payment to Ranbaxy --
THE COURT: Well, try to ask questions. Strike that out. They're all going to get a chance to argue to you. This isn't the time. Ask questions, nonleading questions. Go ahead.
Q. Did the fact that Ranbaxy received a no-authorized generic clause also provide an incentive or affect Teva's incentive whether or not to join the conspiracy?
A. Yes, it did.
Q. And how so?
MR. SCHOEN: Motion to strike, your Honor.
THE COURT: Yeah, um, one, the question is -- it

assumes facts not in evidence, and the answer is stricken. Disregard it.

Q. Dr. McGuire, did the fact that Ranbaxy received -- how if at all did the fact that Ranbaxy received a no-authorized generic clause affect Teva's incentives on how to respond?

MR. SCHOEN: Objection, your Honor.

THE COURT: You may testify consistent with Paragraph 25.

A. Teva's in a position of deciding, "Do I challenge the litigation or do I play ball and settle?" Anything that makes the challenge to litigation less attractive, like the acceleration clause, means they're more likely to settle. Anything that makes the settling more attractive will make it more likely to settle. So it has a kind of complementary effect by making the settlement option more attractive to Teva.

Q. And how does the no-authorized generic agreement clause play into that if at all?

A. The way it works is that the no-ag agreement means that at the end of the 180-day exclusivity period there's only one active established generic, and that would be in this case Ranbaxy, at which point Teva could conceivably enter. If the no-ag clause had not been there, there would be more than one established generic

marketing and it's just tougher to enter and make sales against two than it is to enter and make sales against one.

Q. Dr. McGuire, did you form an opinion as to whether or not AstraZeneca negotiated interdependent and collusive agreements with Ranbaxy and Teva to secure an industry-wide May 2014 generic entry date?

MR. SCHMIDTLEIN: Objection, your Honor, the report.

THE COURT: You suggest that's in the report?

MR. SHADOWEN: Yes, it is, your Honor.

THE COURT: Where is it?

(Pause.)

MR. SHADOWEN: I believe it's 187, your Honor.

MR. BALDRIDGE: Which tab?

MR. SHADOWEN: Tab 1.

I apologize, your Honor, it's in Paragraph 19.

THE COURT: Paragraph 19, Tab 1?

MR. SHADOWEN: Yes, sir.

(Pause.)

MR. SCHMIDTLEIN: I believe it's under the section entitled "Allegations" in his report.

(Pause.)

MR. SCHMIDTLEIN: Yes, the citation for the sentence --

THE COURT: No, no, I do understand.

(Pause.)

THE COURT: Yes?

MR. SHADOWEN: It's in Paragraph 187, your Honor.

THE COURT: Well, all right. 187.

Yeah, sustained as to the question in that form.

MR. SHADOWEN: Your Honor, in light of the sidebar conversations, can we take a break early this morning?

THE COURT: On the representation that's going to save us time, which you readily make?

MR. SHADOWEN: I absolutely do.

THE COURT: Very well.

MR. SHADOWEN: Thank you, your Honor.

THE COURT: All right. We will stop taking testimony at this time for one half hour, until 11:00. Keep your minds suspended. You have not heard this witness entirely. Do not discuss the case either among yourselves nor with anyone else. You may stand in recess. I'll remain on the bench.

(Jury leaves, 10:30 a.m.)

THE COURT: Please be seated. I remain on the bench not to invite argument but to say that the defense objections, I've been as liberal as I know how with respect to what opinions he actually gave in his report. There's no report, and I've looked this over, that seems

to go to the theory, the one theory that the plaintiffs, even if you survive through the weekend here, are seeking to go to the jury on. And that last question was completely untethered, it was filled with pejorative statements, which apparently don't represent his conclusions. At least I don't see any such conclusion.

So you take this half hour, see if you can't shorten this up, get what you are entitled to get out of this, and, um, we'll get on to causation.

Enough said. We'll recess. One half hour. We'll recess.

(Recess, 10:32 a.m.)

C E R T I F I C A T E

I, RICHARD H. ROMANOW, OFFICIAL COURT REPORTER, do hereby certify that the foregoing record is a true and accurate transcription of my stenographic notes before Judge William G. Young, on Thursday, November 13, 2014, to the best of my skill and ability.

/s/ Richard H. Romanow 11-13-14

RICHARD H. ROMANOW Date